

REMARKS

In the Office Action of 18 June 2007, the Examiner rejected all of the new claims 21 through 37, but on new grounds of rejection.

Claims 21 through 37 were objected to based on the Examiner's position that the Figure 2 diagram requires the components of the device listed as not included in the microprocessor. Hence, the new claims recite connected to the microprocessor instead of included therein. It is believed that this amendment to every new independent claim is satisfactory to and overcomes this objection.

Claims 21 through 23, 25 through 28 and 30 through 37 were rejected under 35 USC 103(a) as being unpatentable over the Mariano et al publication further in view of the Rapchak patent and further in view of the Kobayashi et al. publication.

Claims 24 and 29 were rejected under 35 USC 103(a) as being unpatentable over the Mariano et al publication further in view of the Rapchak patent and further in view of the Kobayashi et al. publication and further in view of the Forman publication.

Applicant wishes to respond as follows:

I. Rejection Of Claims 21 Through 23, 25 Through 28 and 30 Through 37 Under 35 USC 103(a) Based On Mariano et al, Rapchak and Kobayashi et al In Combination

The primary reference to Mariano et al teaches a medicine container with a transmission system that provides for stored audio presentations. Contrary to the examiner's interpretation that Mariano only lacks wave file transmission teachings, the

present invention as specifically claimed in claim 38 et seq., is absent from Mariano in many respects. First, claim 38 is very specific and is prefaced by the “consisting of” limitation. Second, claim 38 requires a method of communicating prescription medicine instructions to patient, which consists of:

(a.) providing a medicine container, said medicine container including a storage area for medicine, and a microprocessor attached to a said medicine container, said medicine container further including, with said microprocessor connected to:

(a)(i) a wave file receiving chip;

(a)(ii) a wave file storage means;

(a)(iii) a wave file audio playback means;

(a)(iv) an audio playback start means; and

(a)(v) a power supply within said microprocessor adapted to power components of said microprocessor;

(b.) providing a central processor that is a computer system separate from said medicine container, said central processor including:

(b)(i) computer user input means selected from keyboard, mouse, ball and touch pad;

(b)(ii) text-to-speech means;

(b)(iii) wave file means to create a wave file from said text-to-speech means; and

(b)(iv) wireless transmission means to wirelessly transmit said wave file from said central processor to said microprocessor wave file receiving chip;

(c.) inputting said user input means to create prescription medicine instruction text;

(d.) converting said text to electronic speech;

(e.) creating a wave file with said electronic speech;

(f.) transmitting said wave file to said microprocessor wave file receiving chip;

(g.) storing said wave file in said microprocessor for subsequent playback by a user by activating said audio playback starting means.

(h.) creating a unique identifier in said central processor;

(i.) wirelessly transmitting said unique identifier to said microprocessor; and

(j.) providing accessing means for accessing said unique identifier from said microprocessor.

Of these method steps, Mariano is absent more than twelve of the claimed steps. Specifically:

We use a microprocessor attached to the container and a separate computer to create the wave files for transmission. Mariano does not.

We use a wave file receiving chip; Mariano does not.

We use a wave file storage means; Mariano does not.

We include a wave file audio playback means; Mariano does not.

Our method includes a central processor that is a computer system separate from said medicine container, and our central processor includes text-to-speech means; Mariano does not.

Our central processor has a wave file means to create a wave file from said text-to-speech means; Mariano has neither.

We include a wireless transmission means to wirelessly transmit said wave file from said central processor to said microprocessor wave file receiving chip; Mariano does not.

We include inputting said user input means to create prescription medicine instruction text; Mariano does not even use text.

We convert said text to electronic speech; Mariano does not.

We then create a wave file with said electronic speech; Mariano does not.

We next transmit said wave file to said microprocessor wave file receiving chip; Mariano does not.

We store said wave file in said microprocessor for subsequent playback by a user by activating said audio playback starting means; Mariano does not.

The Mariano patent is directed to the use of an embedded chip with 20 or 32 seconds of sound. This is nothing compared to the present invention wherein instructions, warnings product insert information and unique identifiers are included in the present invention transmitted information. These are important points of the invention, and illustrate the canyon of differences between the present invention and the Mariano reference.

Further there are dependent claim features and device features that are lacking in Mariano. For example, our method includes the use of a preset data collection of prescription medicine instructions, including for different medications and different dosages, and software to permit a user to select appropriate prescription medicine instructions corresponding to a specific medication and dosage combination. Mariano does not teach this feature.

The secondary reference to Rapchak et al. teaches a medication compliant system that is significantly different from the present invention. Rapchak involves the use of a monitoring system utilizing a cell phone and transceiver operatively coupled to a controller of the medication dispensing unit. As can be seen from the figures and disclosure of Rapchak, this invention is directed to reduction of non-compliance. Rapchak does not teach the present invention, device or methodology wherein product insert and doctor or pharmacy instructions are pre-programmed into a medicine container before the patient receives the container and wherein the aforesaid information is preloaded using wav file technology. Rapchak's system includes a cell phone and tracking of compliance and the ability to check compliance and then send an alarm signal with instructions to the patient. No medicine container is used in Rapachak in the sense of the present invention, i.e, a bottle that can be carried in a pocket. The Rapachak device is a cell phone or similar device used to alarm a patient from a medicine dispensing unit with a visual display. This system is so far removed from the present invention and from Mariano that a cell phone and a Public Switched Telephone Network is needed for the Rapachak invention (col. 2, lines 56-64) ! Rapachak requires the user to answer a phone and then wave files are used to give audio instructions (col 4, lines 54-59). The present invention is totally different from a phone system and the mere fact that wave files are used with phones does not make the present invention obvious.

While it is disclosed in Rapchak that a wav file may be retrieved and sent to the user by telephone, it is important to note that Rapchak teaches the exact opposite of the present invention device. In other words, when non-compliance is recognized and the patient is alerted, when the patient answers the cell phone, the medication controller may

retrieve an audible file, such as a wav file, and it is reproduced in audible form through the cell phone or its equivalent. In the present invention, wav file instructions are sent to the medicine container and preloaded in the medicine container for speaking instructions whenever a patient elects to press the button on the container. Thus, Rapchak requires a complex monitoring and alarm system with a cell phone or equivalent. The present invention includes none of these. Rapchak relates to aiding a patient after non-compliance has occurred whereas the present invention provides the information at any time and especially before beginning medication consumption. Contrary to the present invention, Rapchak has a large dispensing unit 16 that includes the cell phone and other wired material and then one or more removable small dispensers 12 that do not contain any electronics or any of the information that the present invention containers include. Thus, an elderly patient may not remove one of the Rapchak dispensers and take it anywhere (e.g. vacation) and will be left with no connection for instructions. The present invention device has all the information built in to the container and cannot be separated. In order to distinguish all of the Rapchak components and steps that are not in the present invention, the new claims utilize “consisting of”.

Kobayashi et al. relates to digital audio recording and reproducing apparatus. The Kobayashi et al. teachings are nonanalogous art to the present invention involving speaking medicine bottles that are loaded by wave file techniques and do not in any way overcome the shortcomings of Mariano or Rapchak. Kobayashi et al is involve in recording and reproduction devices similar to hand held tape recorders and iPods, not to medicine compliance devices or methods. Applicant is not claiming to have invented wave files, but only to the use of wave files in the context of medicine containers as

specifically claimed and set forth above. Further, given the technological arrangements and the manner in which Rapchak responds to non-compliance, there is no need to include, and hence no motivation to include, the Kobayashi et al. type teachings in the Rapchak system.

While the examiner has stated that it would have been obvious to one of ordinary skill in the art at the time of invention of made to modify Rapchak's method by Kobayashi's and Mariano's method in order to provide prescription instruction to visually impaired user, a Shizuka modification to Rapchak is not needed or motivated and even if made, would still result in the Rapchak system that has the opposite arrangement and purpose with different components from the present invention. Finally, the idea that Rapchak teachings should be modified to incorporate the Mariano teachings, seems inappropriate. Both Mariano and Rapchak are independent inventions and neither contributes in any way to the other. In fact, in view of the details and complexities of the Rapchak system, modification to accommodate blind users would probably create problems for blind users rather than be of any assistance to them.

For all of the above reasons, and in view of the newly submitted claims, this triple reference-based rejection should be withdrawn.

II. Rejection Of Claims 24 and 29 Under 35 USC 103(a) Based On Mariano et al and
Rapchak and Kobayashi et al and Forman In Combination

The comments in the section immediately above relating to the primary reference to Mariano, to the secondary reference to Rapchak and the tertiary reference to Kobayashi are repeated here and incorporated herein by reference.

The quaternary reference to Forman is a teaching with respect to a doctor writing a prescription by email, fax or computer print. Contrary to the Examiner's understanding, this reference is not about pharmaceutical industry manufacturing or pharmacy fulfillment, but about doctors using computers to email or fax prescriptions. It does not relate to modified medicine containers as in the present invention. This reference in no way overcomes the shortcomings of the other three references, which shortcomings are set forth above.

For all of the above reasons, and in view of the newly submitted claims, this quadruple reference-based rejection combining diverse arts in uncombinable fashion, should be withdrawn.

III. Conclusion

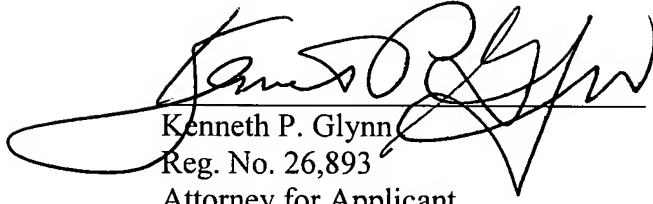
In view of the above amendments and remarks, it is urged that claims 38 through 54 should be allowed.

Thank you.

Respectfully submitted,

Dated: 18 August 2007

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A handwritten signature in black ink, appearing to read "Kenneth P. Glynn", is written over a horizontal line.

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